



Bureau of TennCare Policy Manual

Policy No. : HIP 06-008	
Subject:	Accounting of Disclosures of Enrollee Records
Date:	September 1, 2006
Approved by:	<i>David J. [Signature]</i> Date: <i>9/1/06</i>

PURPOSE OF POLICY

This policy addresses how the Bureau of TennCare (the Bureau) will account for disclosures of Enrollee protected health information (PHI) when required by The Health Insurance Portability and Accountability Act of 1996 (HIPAA) or other Bureau policies.

POLICY

The Bureau shall timely respond to Enrollee requests for accounting of disclosures of protected health information (PHI) maintained by the Bureau. The Bureau will provide enrollees with all the privacy rights granted by HIPAA and by federal and state laws and regulations.

DISCUSSION & LEGAL BASIS

The Bureau complies with HIPAA in responding to Enrollee requests for Accounting of Disclosures. However, the Bureau is not compelled to provide an accounting of disclosures made:

- for treatment, payment or health care operations;
- to enrollees or their personal representatives;
- pursuant to an authorization;
- to persons involved in the enrollee's care if authorized by the enrollee;
- for national security or intelligence purposes;
- to correctional institutions or law enforcement in limited circumstances;
- as part of a limited data set (see definitions);
- incidental to a use or disclosure permitted by HIPAA and Bureau policy; or
- more than six years prior to the date of request or prior to *April 14, 2003*.

Publishing PHI in a facility directory (e.g. by a hospital) is also exempt but would not generally occur in Bureau operations.

Some disclosures may be temporarily exempt from disclosure if requested by a law enforcement agency or a health care oversight agency.

PROCEDURE

1. The Privacy Officer is responsible for receiving and processing requests for accountings of disclosures and for responding to reports of disclosures which may not be permitted by HIPAA or by Bureau policies and procedures.
2. TennCare staff must report the following disclosures to the Privacy Officer and record any disclosures of Protected Health Information *not otherwise allowed* by either:
 - a. an enrollee's authorization or
 - b. to carry out treatment, payment, or health care operations.

All improper disclosures are to be reported to the Privacy Officer, Office of General Counsel.

Enrollee PHI disclosed by Bureau staff which should be logged:

- a. Disclosures to a public health official (FDA, CDC, Bureau of Vital Statistics) such as the reporting of disease or injury (would not include DHHS staff providing treatment);
- b. Disclosures in response to mandatory child or elder abuse reporting laws (other than protective services staff who respond to such report) to an entity authorized by law to receive the abuse report;
- c. Disclosures from an individual's record when reasonably believed to be a victim of abuse, neglect or domestic violence to an entity authorized by law to receive the abuse report;
- d. Disclosures from an individual's record to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative, or criminal investigations, proceedings or actions; inspections; licensure or disciplinary actions;
- e. Disclosures made for the purposes of research following privacy board approval;
- f. Disclosures for workers' compensation;

- g. Disclosures about an individual pursuant to a court order in a court case or other legal proceeding;
 - h. Disclosures about an individual provided for law enforcement purposes;
 - i. Disclosures about an individual related to decedent status or tissue donation;
 - j. Disclosures about an individual to prevent or lessen a serious threat to health or safety of a person or the public; and,
 - k. Disclosures about an individual provided for specialized government functions related to Armed Forces personnel.
3. We must act on an enrollee's request for an accounting of disclosures within sixty (60) days of receipt. If we are unable to provide the accounting within sixty (60) days, we have one opportunity to extend the time by giving the enrollee a written statement of the reasons for the delay, extending the time by no more than thirty (30) days.
4. Enrollee requests for Accounting of Disclosures should be submitted in writing to:

TennCare Privacy Office
Attn: Privacy Officer
P.O. Box 20007
Nashville TN 37202
(615) 507-6830
(866) 797-9469

In the event of disclosure of an enrollee's PHI not permitted under HIPAA, the Bureau will attempt to mitigate any potential harmful effects and will log such a disclosure in a manner consistent with this policy.

5. Enrollees may receive one (1) accounting of disclosures free of charge per year. Additional accountings of disclosures are subject to applicable fees.

DEFINITIONS

Enrollee: means those currently enrolled in all categories of TennCare Medicaid and TennCare Standard, including an individual eligible for and enrolled in the TennCare Program or in any Tennessee federal Medicaid waiver program pursuant to Sections 1115 or 1915 of the Social Security Act; and, for purposes of the Bureau Privacy policies, the term may also be used to reference one who was previously an enrollee during a period for which there is a privacy request or compliance inquiry.

Health care operations: means any Bureau activity related to covered functions such as eligibility and benefits.

HIPAA: means Health Insurance Portability and Accountability Act of 1996 and for which administrative simplification, privacy, and security regulations are codified at 45 Code of Federal Regulations, Parts 160-164.

Incidental disclosure: means a term of art used to describe inadvertent or uncalculated releases of information that may occur coincidentally during Bureau operations, such as when a person overhears a nearby Bureau employee discuss health information on the phone.

Limited data set: means PHI that excludes direct identifiers (e.g. names, address, social security numbers) of the individual, relatives, employers or household members.

Payment: means activities undertaken to obtain premiums, determine eligibility and benefits or provide reimbursement for the provision of health care.

Personal representative: means an individual or entity legally authorized to act on behalf of the individual enrollee.

Protected Health Information (PHI): means medical or health information, including non-medical facts such as address or date of birth, which identify an individual.

Treatment: means the provision, coordination, or management of health care.

OFFICE OF PRIMARY RESPONSIBILITY

TennCare Privacy Officer, Office of General Counsel

RELATED FORMS

Request for Accounting of Disclosures

Accounting of Disclosures of Enrollee Protected Health Information

REFERENCES

45 CFR § 160.103

45 CFR § 164.501

45 CFR § 164.512

45 CFR § 164.514

45 CFR § 164.528

45 CFR § 164.530

42 USCA § 1320d-5